

## **REMARKS**

### **1. Status of the Claims**

Claims 1-49 stand pending. Claims 1-49 stand rejected.

After entry of the above amendments, claims 1, 2, 11-23, 32-44, and 46-49 stand pending; claims 3-10, 24-31, and 45 stand canceled. Claims 1, 13, 22, 32, 34, and 44 stand amended.

Support for the amendments to claims 1, 13, 22, 32, 34, and 44 can be found at least for example in the original claims. For example, the limitations of claims 3-10 in part are introduced in to claim 1, with claims 3-10 canceled. Similarly the limitations of claims 24-31 in part are introduced in to claim 22, and claims 24-31 stand canceled. Cancellation of and amendments to the claims have been made without prejudice to or disclaimer of the subject matter contained therein. Applicants reserve the right to file a continuation and/or divisional on any subject matter canceled by way of amendment.

### **2. Acknowledgement of Certified Priority Document**

Applicants note with appreciation the acknowledgement of receipt of the certified priority documents.

### **3. Acknowledgement of Information Disclosure Statement**

Applicants note with appreciation the acknowledgement of the Information Disclosure Statement filed September 26, 2005. Applicants submit herewith a new Information Disclosure Statement for consideration. Applicants respectfully request acknowledgement with the Office's next communication.

### **4. Rejection of the Claims Under 35 U.S.C. § 102(b)**

Claims 1-49 are rejected under 35 U.S.C. § 102(b) as being anticipated by (1) JP 2002-180082 or (2) WO 02/06505 or (3) Kawashima et al. or (4) Namal et al. or (5) Yoshida et al. or

(6) under 35 U.S.C. § 102(a) as being anticipated by WO 03/004667. The Office alleges that claims 2-21, 23-43, and 45-58 purportedly would “not contain any features which, in combination with the features of any claim to which they refer render them novel, as the features of these dependent claims have already been employed for the same purposes in similar compositions and processes....” The Office alleges the following with regard to each of the references:

- JP 2002-180082 (English Abstract only) allegedly discloses a structured lipid having an omega-3 fatty acid in the second position, its use in foods and for preparing a composition having a lipid improving action.
- WO 02/06505 (Abstract) allegedly discloses triglycerides with polyunsaturates in the sn-2 position and its use in foods.
- Kawashima et al. allegedly discloses the production of foods with lipid improving functions containing triglycerides with polyunsaturated fats in the sn-2 position and saturates in the sn1/3 positions (Abstract and page 611).
- Namal et al. allegedly discloses a food oil compositions which have lipid improving function containing triglycerides having omega 3 and omega 6 fatty acids in the sn-2 position (page 803).
- Yoshida et al., discloses food oil compositions from fish which have a lipid (improving function which comprises structured lipids having polyunsaturates in the sn-2 position (Abstract)
- WO 03/004667 allegedly discloses a triglyceride having a polyunsaturated fatty acid n the sn-2 position and its use in foods (Abstract).

See Office Action, pages 2-3.

Applicants traverse the rejection to the extent it is applied to the claims as presently amended. "Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claims". Jamesbury Corp. v. Litton Industrial Products, Inc., 225 U.S.P.Q. 253, 256 (Fed. Cir. 1985).

4.1 JP 2002-180082 [hereinafter the '082 application]

The '082 application describes the productions of a structural triglyceride having  $\omega$ 3-polyunsaturated fatty acid at position 2, and having middle chain fatty acids at positions 1 and 3, and the use thereof for treatment of some diseases or symptoms. However, the '082 application does not describe the triglycerides recited in the amended claims. Thus, the '082 application does not teach or suggest all the elements of the claims as amended. Accordingly, the rejection can be withdrawn in view of this reference.

4.2 Kawashima et al., JAOCS (2001)

Kawashima describes an enzymatic process for production of a structural lipid having  $\omega$ 3-polyunsaturated fatty acid at position 2 and having middle chain fatty acids at positions 1 and 3. The polyunsaturated fatty acids are docosahexanoic acid and eicosapentaenoic acid from fish oil and microbial produced arachidonic acid. Kawashima does not describe the triglycerides recited in the amended claims. Thus, Kawashima application does not teach or suggest all the elements of the claims as amended. Accordingly, the rejection can be withdrawn in view of Kawashima.

4.3 Sananayake et al., Lipids (2002)

All Sananayake describes is transesterification of oils such as borage oil, evening primrose oil, etc. so as to change positions of fatty acids on glyceride. The reference is thus irrelevant to the claims as amended. The rejection of the claims over this reference can also be withdrawn.

4.4 Yoshida et al., J. Nutr. Sci. Vitaminol. (1999)

Yoshida only describes that in natural seal oil, docosahexanoic acid and eicosapentaenoic acid are mainly positioned in triglyceride and are mainly positioned on position 2 in fish oil. Yoshida does not teach or suggest the presently claimed triglycerides. Accordingly, the rejection of the claims over this reference can also be withdrawn.

4.5 WO 02/06505

The PCT application describes a process for producing a structural lipid having polyunsaturated fatty acids (docosahexanoic acid, eicosapentaenoic acid, arachidonic acid) on position 2 and middle chain fatty acids on positions 1 and 3. The PCT application therefore does not teach or suggest the triglycerides of the amended claims. Thus, the rejection of the claims over this reference can be withdrawn.

4.6 WO 03/04667

This PCT application describes a process for producing a structural lipid having  $\omega$ 6-polyunsaturated fatty acid (ARA or DGLA) at position 2 and middle chain fatty acids on positions 1 and 3. This PCT application does not teach the triglycerides recited in the amended claims. Thus, the PCT application does not teach or suggest the amended claims. The rejection of the claims over this reference can also be withdrawn.

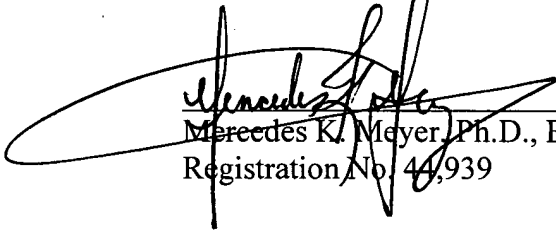
Therefore, none of the references teach or suggest all the limitations of the claims as amended. Accordingly, the rejection under §102(a) or (b) over these references can be withdrawn, and the claims allowed.

**CONCLUSION**

If there are any other fees due in connection with the filing of this Amendment, please charge the fees to our Deposit Account No. 50-0573. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested, and the fee should also be charged to our Deposit Account.

Respectfully submitted,  
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